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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,103	03/30/2001	Vassil Jordanov	CHI-1002	8391

7590 07/27/2005

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EXAMINER

JONES, HUGH M

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,103

Applicant(s)

IORDANOV ET AL.

Examiner

Hugh Jones

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/13/2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-29 of U. S. Application 09/823,103, filed 03/30/2001 are presented for examination.

Oath/Declaration

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

3. The oath or declaration is defective because one of the inventors has declared "that I am the sole creator of the subject matter disclosed in the CHI Systems Technical Report 001004.9915 that has been claimed in the current patent application." It is noted that a 102 anticipation rejection was applied against all claims. Therefore, "that has been claimed" constitutes all the claims. Therefore, there appears to be a question of inventorship. Clarification and/or correction is required.

4. The inventor did not specify any particular sections of the technical report. The rejection stated "Zachary et al. disclose CGF-COGNET, including all claimed limitations. See page 4; section 2.1; figure 2-3; sections 2.1.3.1, 2.1.3.2, pp. 18; 20; 22; 24-26; 30; 47; 56. Applicant's specification indicates that CGF-COGNET is also being disclosed. See pg. 9 (last three lines); pg. 16, lines 21-23pp. 22-26; pg. 28, lines 10-12; pg. 33, lines 16-17; pp. 35-42; pp. 48-51; pp. 54-55. Note especially, pg. 61, lines 17-18; pp. 73-78; pg. 81; pp. 85-88." Therefore, it is interpreted that the inventor is referring to those sections.

Specification

5. As provided in 37 CFR 1.77(b), the specification of a utility application should include a statement regarding federally sponsored research or development. One of the inventors has declared "that I am the sole creator of the subject matter disclosed in the CHI Systems Technical Report 001004.9915 that has been claimed in the current patent application." It is noted that the title page of the report indicates that the report was prepared for the Air Force Research Laboratory and lists a contract number. Clarification and/or correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 1-29 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Zachary et al. (item "BM" in the IDS of 8/24/2001).

8. Zachary et al. disclose CGF-COGNET, including all claimed limitations. See page 4; section 2.1; figure 2-3; sections 2.1.3.1, 2.1.3.2, pp. 18; 20; 22; 24-26; 30; 47; 56. Applicant's specification indicates that CGF-COGNET is also being disclosed. See pg. 9 (last three lines); pg. 16, lines 21-23pp. 22-26; pg. 28, lines 10-12; pg. 33, lines 16-17; pp. 35-42; pp. 48-51; pp. 54-55. Note especially, pg. 61, lines 17-18; pp. 73-78; pg. 81; pp. 85-88.

Response to Arguments

9. Applicant's arguments filed 6/13/2005 have been carefully reviewed, but are not persuasive.

10. The 102 rejection is maintained because the invention the invention was known or used by *others* (different inventive entity) in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent. Applicants have made no other arguments.

Conclusion

11. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be:

directed to:

Dr. Hugh Jones telephone number (571) 272-3781, Monday-

Thursday 0830 to 0700 ET,
or

the examiner's supervisor, Jean Homere, telephone number (571) 272-3780.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, telephone number (703) 305-3900.

mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 308-9051 (for formal communications intended for entry)

or (703) 308-1396 (for informal or draft communications, please label *PROPOSED* or *DRAFT*).

Dr. Hugh Jones

Primary Patent Examiner

July 19, 2005

HUGH JONES Ph.D.
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2100